IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

OP.No. 9984 of 1997(L)

PETITIONER:

SALINI RAVINDRAN, W/O. T.P. RAVINDRAN, "THE COTTAGE"
GLASS FACTORY ROAD, KALAMASSERY, KOCHI

BY ADV. SRI.K.P.DANDAPANI

RESPONDENTS:
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1. THE DEPUTY TAHSILDAR (RR), REVENUE RECVERY, KERALA FINANCIAL CORPORATION, CALICUT.

2. THE KERALA FINANCIAL CORPORATION, THEIRUVANANTHAPURAM, REPRESENTED BY ITS GENERAL MANAGER.

R2 BY ADV. SRI.V.B.UNNIRAJ
R1 BY GOVERNMENT PLEADER SMT. SMITHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 17481 OF 1997 IN OP 9984 OF 1997

DISMISSED

14.3.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE PROCEEDINGS OF THE DIST. COLLECTOR, CALICUT DATED 3.9.1996

EXT.P2 TRUE COPY OF THE NOTICE ISSUED BY THE FIRST RESPONDENT ON 7.10.1996

EXT.P3 TRUE COPY OF THE REPRESENTATION DATED 16.10.1996 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.

EXT.P4 TRUE COPY OF THE LETTER ISSUED BY THE FIRST RESPONDENT ON 16.10.96 ADDRESSED TO THE PETITIONER.

EXT.P5 TRUE COPY OF THE REPRESENTATION DATED 4TH NOV. 1996 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P6 TRUE COPY OF THE LETTER NO. DK.1/95-96 DATED 29.11.96 ISSUED BY THE FIRST RESPONDENT ADDRESSED TO THE PETITIONER.

EXT.P7 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT ON 18.12.1996

EXT.P8 TRUE COPY OF THE LETTER NO. DR.1/95-96 DATED 15.3.97 ISSUED BY THE FIRST RESPONDENT ADDRESSED TO THE PETITIONER.

EXT.P9 TRUE COPY OF THE PROCEEDINGS OF THE FIRST RESPONDENT DR.1/95-96 DATED 27.5.1997 ADDRESSED TO THE PETITIONER.

EXT.P10 TRUE COPY OF THE NOTICE OF ATTACHMENT OF IMMOVABLE PROPERTY NO. DR.1/95-96 DATED 27.5.1997 ISSUED BY THE FIRST RESPONDENT ADDRESSED TO THE PETITIONER AND SRI. GIRIDHAR SREENIVAS.

2ND RESPONDENT'S EXHIBITS:

EXT.R2(a) TRUE COPY OF THE DEED OF GUARANTEE DATED 2.3.87

LOAN AGREEMENT DATED 27.2.1987

DEED OF GUARANTEE

AGREEMENT DATED 18.3.1988

REVENUE RECOVERY REQUISITION

PROCEEDINGS DATED 25.12.1987 OF THE BOARD OF DIRECTORS OF THE COMPANY.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 9984 OF 1997

Dated this the 14th day of March, 2007

JUDGMENT

Petitioner is challenging recovery proceedings for recovery of arrears of loan taken by M/s. Southern Poly Bags Pvt. Ltd. from KFC. Liability arose on petitioner personally because personal guarantee was executed by the petitioner. Personal guarantee agreement is produced by the KFC as Ext.R1(b). In view of the personal guarantee executed by the petitioner recovery can be continued against the petitioner. However, petitioner is stated to have sold her property to another person after service of notice of revenue recovery proceedings. Transaction is therefore invalid not only by virtue of Section 44 of the RR Act but by virtue of Section 53 of the TP Act which declares that transaction to defraud the creditors is invalid. In the circumstances, O.P. challenging the recovery proceedings is devoid of any merit and is dismissed. Respondents are free to proceed with recovery.

(C.N.RAMACHANDRAN NAIR)
Judge